

L. JOYCE HAMPERS  
COMMISSIONER

# *The Commonwealth of Massachusetts*

*Department of Revenue*

*Leverett Saltonstall Building,*

*100 Cambridge Street, Boston 02204*

June 10, 1982

You inquire whether the Massachusetts sales tax on meals will apply to salads sold by \_\_\_\_\_ Inc. and \_\_\_\_\_ Inc. ("supermarkets"). The salads will be made by customers from a salad bar located in the produce department of the supermarkets. The customers will place desired amounts of cut fruit and vegetables in containers provided by the supermarkets. They will pay for the salads along with their other purchases at the check-out counter. The salads are sold by weight. There will be no facilities on the premises to eat the salads.

General Laws Chapter 64N, Section 6(h) exempts from sales taxation food products for human consumption other than meals sold by a restaurant. A meal is defined as "any food or beverage...prepared for human consumption and provided by a restaurant, where the food or beverages is intended for consumption on or off the restaurant premises...". A restaurant is "any eating establishment where food, food products, or beverages are provided and for which a charge is made...". Under Section 6(h) of Chapter 64N, delicatessen, grocery, market or bakery stores are not considered eating establishments except for any part of such store which engages in the sale of dinners, luncheons, barbecued chicken (unless sold whole and unsliced), sandwiches, snacks, pizzas, and other similar items which are commonly sold at snack bars, coffee shops or luncheon counters.

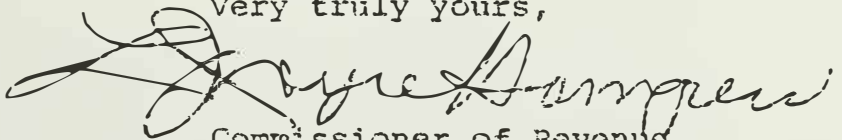
Section 6(h) also provides that certain food sold by a restaurant for consumption off the restaurant premises is not considered a "meal". Food sold by weight comes within

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this exception provided that such food is commonly sold in such manner in a retail food store which is not a restaurant. Salads, which are made by customers from a salad bar located in a supermarket, are not commonly sold in such manner in a retail food store which is not a restaurant.

Based on the foregoing, it is ruled that that part of a supermarket which sells salads prepared by the customers at a salad bar is a "restaurant" engaged in selling "meals" within the meaning of Chapter 64H, Section 6(h), and that the salads are subject to the sales tax on meals.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Wayne Duggan". The signature is fluid and cursive, with a large initial "W".

Commissioner of Revenue

LJH:JD:mf

LR 82-61